

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ANTHONY ODELL LONGSTREET, SR.,
Appellant(s),

vs.

THE STATE OF NEVADA; AND ELY
STATE PRISON WARDEN WILLIAM
GITTERE,
Respondent(s),

Case No: C-20-348182-1
Related Case A-21-841927-W
Docket No: 84171

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
ANTHONY LONGSTREET # 1242017,
PROPER PERSON
P.O. BOX 1989
ELY, NV 89301

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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Eighth Judicial District Court
Clark County, Nevada

State of Nevada

Plaintiff,

Vs.

C-20-348182
CASE Number

Anthony Odell Longstreet, SR.
Defendant

ORDER

Writ of Habea Corpus Ad Testificandum

To. WARDEN Calvin Johnson
High Desert State Prison
22010 Cold Creek Road
Indian Spring, Nevada 89070
(702) 879-6667

You ARE hereby ORDERED to Bring the Body of Anthony
O. LONGSTREET, SR. #1242017 to APPEAR in COURT on
At AM/PM Located At 200 LEWIS AVENUE, COURTROOM
12-D

Date Filed

Judge

Anthony O. Longstreet, SR. #1242017
High Desert State Prison
22010 Cold Creek Road
Indian Spring, Nevada 89070
(702) 879-6667

Eighth Judicial District Court
Clark County, Nevada

State of Nevada
Plaintiff,
vs.

C-20-348182-1
CASE Number

Anthony O. Longstreet, SR.
Defendant.

Memorandum of Law In Support of
Motion To Modify

Now come defendant Anthony Odell Longstreet, SR., in support of his
Motion to Modify stating the following below:

(A)
FACT(S)
NRS 47.130(1)

1) On January 25, 2021 Defendant Longstreet gave a Mitigating testimony At sentencing stating he had made a mistake pursuant to NRS 194.010(5). And that said Police report that was given to the Office of Parole and Probation (P & P) By the District Attorney Office was a fabricated report And that he was requesting that the court view the video Footage Before sentencing. CASE WAS continued until January 27, 2021.

2) On January 25, 2021 Deputy Public Defender Seth Gutierrez Argued And recommended that Defendant Longstreet be sentenced to a minimum of 19 months to a maximum of 48 months imprisonment pursuant to NRS 173.033 (1)(B) And NRS 193.130(2)(C). And that was not defendant Defense. Which WAS pursuant to NRS 194.010(5)(6) And (7).

3) Defendant Longstreet defense At sentencing was that he made a mistake while intoxicated and thought the victim had taken his money of the counter Because defendant was under the influence of Alcohol. Counsel for

Defendant then ARGUED that defendant hadn't Put Any Money on the Counter And THAT defendant had OVER Reacted. But still ARGUED imprisonment FOR Punishment, When defendant WAS Requesting time SERVED PURSUANT to NRS 194.010(5)(6)(7). Which do NOT REQUIRE imprisonment

4) When defendant And the victim had engaged into Physical contact And the Fight WAS broke up. Defendant Longstreet Attempted to explain what WAS going on And then out of No where went back over to the Victim, who WAS laying on the Floor, And started Kicking And hitting the victim. This WAS A "CAPRICIOUS ACT" And defendant lacked the Rational basis AS to what he WAS doing BECAUSE he WAS under the influence of Alcohol, A condition of the mind that Rendered defendant Longstreet unable to understand the NATURE of the criminal Act PURSUANT to NRS 194.010(6). which states:

A) 194.010(6) Persons who committed the Act charged without being conscious thereof.

5) On JANUARY 27, 2021 Defendant Longstreet APPEARED back in court to give A Mitigating statement THAT on December 06, 2019 he made A MISTAKE PURSUANT to NRS 194.010(5) And ACCUSED the victim of taking his money off the counter while under the influence of Alcohol while trying to purchase some Food. Which lead to the Fight. NRS 194.010(5) states:

A) Persons who committed the Act OR MADE the omission charged under An ignorance OR Mistake of fact, which disproves Any criminal intent, Where A specific intent is REQUIRED to constitute the offense.

6) Defendant Longstreet stated on Record JANUARY 27, 2021 THAT he WAS given Eight dollars to transport A Passenger And Used the money to purchase A Pint of Gin. And dranked the Gin up BEFORE he went into Dotty's to purchase Food with the intent to use his Debit CARD. And THAT THAT would explain why the witness Ms. Consuelo Jordan-Sosa gave A Voluntary statement saying Defendant dropped his debit CARD during the incident with the victim And THAT defendant WAS Acting very violent.

7) As defendant WAS giving his Mitigating statement the Bailiff interrupted the Proceedings to show Judge Jasmin Lilly-Spells A Portion of the video Footage THAT showed defendant Going back to Kick And hitting the victim while he WAS on the Floor. And when she came back on Record, defendant WASN'T Allowed to Finish his Mitigating statement. And she sentenced defendant Longstreet to A Minimum of 19 months And A Maximum of 48 months to Nevada Department of Correction upon Deputy Public Defender Seth Gutierrez Recommendation.

8.) When Defendant Longstreet Asked Judge Lilly-Spells why WAS she sending him to Prison. she stated because it WAS A violent off. When defendant demanded An Appeal. The Judge said, "You'll Need to talk to Your Attorney." No Appeal WAS taken.

(B.)

Judge Failed to Apply the Rules of
Statutory Construction to Resolve A
Conflict in two statutory Provisions
before Sentencing Defendant to Imprisonment

9) Judge Jasmin Lilly-Spells sentence defendant to 19 to 48 months imprisonment pursuant to NRS 176.033(1)(B) and NRS 193.130(2)(C). And these statutes are in conflict with NRS 194.010(5)(6)(7) when applied to defendant's case.

10) Defendant's defense was for time served because NRS 194.010(5)(6) and (7) does not make an accused liable for punishment if certain criteria are met under NRS 194.010(5)(6) and (7). NRS 194.010 is a specific statute that sets forth an exception to the general statutes under NRS 176.033(1)(B) and NRS 193.130(2)(C) which mandates imprisonment.

11) In Williams v. State Dept. of Corrections, 402 P.3d 1260 (2017) the Nevada Supreme Court said:

"When two statutory provisions conflict, we employ the rules of statutory construction to resolve the conflict. Two rules of statutory construction guide our decision in this matter; the general/specific canon and the implied repeal canon."

12) In a situation like this case Judge Jasmin should have applied the general/specific canon. Why? Because NRS 194.010 is a specific statute that sets forth an exception to imprisonment under the general statutes of NRS 176.033(1)(B) and NRS 193.130(2)(C).

13) Judge Lilly-Spells said she was sentencing defendant Longstreet to imprisonment because the battery was a violent crime. And not because he did not meet the qualification of NRS 194.010(5)(6)(7). And the state never put up a rebuttal to dispute defendant's defense that he was intoxicated and made a mistake.

There are three (3) levels of intoxication:

- 1) Mild Intoxication
- 2) Moderate Intoxication, and
- 3) Severe Intoxication.

14) According to the Attached Exhibit Entitled, "Alcohol Intoxication," Moderate Alcohol intoxication And Severe Intoxication Makes A Person Agitated, violent and uncooperative. And severe Intoxication causes Delusions And Hallucinations. And All these symptoms Played A Role in Defendant MAKING A Mistake. Which MEANS there was Not intent to commit A CRIME.

15) THEREFORE, when Judge Jasmin Lilly-Spells sentenced defendant to imprisonment, she did so unlawfully. Which REQUIRE A modification of his sentence from imprisonment to time served.

16) When defendant was trying to Explain what happened JANUARY 27, 2021 As his defense for the time served he was cut off By the Bailiff so that the Bailiff could show the Judge the video Footage on this case. And when she came BACK on Record she did not Allow defendant to Finish Explaining what happened And sentenced defendant to imprisonment. And when defendant Asked the Judge why was she sending defendant to Prison she stated because it was A violent offense.

17) Failure to give defendant An opportunity to give A statement in his own defense And to Present Any information in Mitigation of Punishment Violates Rule 32(A) of the Federal Rules of Criminal Procedures.

(C)

Counsel Seth Gutierrez Argument For Imprisonment At Sentencing Created A Conflict of Interest Resulting in Ineffective Assistance of Counsel

18) On JANUARY 25, 2021 Deputy Public Defender Seth Gutierrez Argued that defendant Longstreet Be sentenced to A Minimum of 19 months And A Maximum of 48 months imprisonment. And that was Not defendant Defense.

19) On JANUARY 25, 2021 Defendant Longstreet defense At sentencing was that he made A Mistake and thought the victim had taken his money off the counter Because defendant was under the influence of Alcohol. Counsel For Defendant then Argued that defendant hadn't Put Any money on the counter And that defendant had over Reacted. But still Argued imprisonment For Punishment when defendant Longstreet was Requesting time served As A Punishment Pursuant to NRS 194.010(5)(6)(7).

20) Counsel Deputy Public De Fender Seth Gutierrez. Representation on JANUARY 25, 2021 was A conflict of Interest Because his Recommendation to the Court was 19 to 48 months imprisonment And defendant Longstreet defense was to ARGUE time served. Seth Gutierrez violated Defendant Longstreet Right to Effective Assistance of Counsel Based on A Conflict of interest Resulting in his clients imprisonment, And his client was denied the Right to Appeal the sentence.

21) In Strickland v. Washington 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674, the United States Supreme Court had this to say about a defendant Alleging ineffective Assistance of Counsel:

"FOR CASES OF DEFICIENT PERFORMANCE BY COUNSEL, WHERE THE GOVERNMENT IS NOT DIRECTLY RESPONSIBLE FOR THE DEFICIENCIES AND WHERE EVIDENCE OF DEFICIENCY MAY BE MORE ACCESSIBLE TO THE DEFENDANT THAN TO THE PROSECUTOR, THE DEFENDANT MUST SHOW THAT COUNSEL'S ERRORS RESULTED IN ACTUAL AND SUBSTANTIAL DISADVANTAGE TO THE COURSE OF HIS DEFENSE." Id. At 80 L.Ed. 2d 674, 682

22.) An ERROR by counsel, according to Strickland v. Washington, even if Professionally UNREASONABLE, does NOT WARRANT setting ASIDE the Judgment of A CRIMINAL PROCEEDING if the ERROR had NO EFFECT on the Judgment. The purpose of the Sixth Amendment guarantee of counsel is to ensure THAT A defendant HAS the ASSISTANCE NECESSARY to Justify Reliance on the outcome of the Proceeding. Accordingly, Any deficiencies in counsel's PERFORMANCE must be PREJUDICIAL to the defense in order to constitute INEFFECTIVE ASSISTANCE under the constitution. Id. At 80 L.Ed. 2d 674, 692.

23.) Prejudice is Presumed only if defendant demonstrate that counsel "Actively Represented conflicting interests" AND THAT AN ACTUAL conflict of interest Adversely Affected his LAWYER'S PERFORMANCE. Id. At 80 L.Ed. 2d 674, 697.

24.) THEREFORE, defendant Longstreet is entitled to A New sentencing HEARING to HAVE his sentence Modified to time served.

WHEREFORE, Defendant PRAY this court GRANT this motion.

Respectfully submitted

Anthony C. Longstreet, SR.

PRO-SE Defendant/Minister/PARALEGAL

Exhibit

Alcohol Intoxication



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Alcohol Intoxication

Written by Ada's Medical Knowledge Team
Updated on February 13, 2020, 8:01 AM PST

What is alcohol intoxication?

Alcohol intoxication, also referred to as drunkenness, ethanol intoxication, or alcohol poisoning in severe cases, is a temporary condition caused by drinking too much alcohol. The amount of alcohol needed for intoxication varies from person to person.

Due to the wide availability of alcoholic beverages, acute intoxication is quite common – affecting almost 10 percent of adults in the United States alone, leading to an estimated annual economic cost of over \$250 billion.^[1]

The signs and symptoms of alcohol intoxication result in alterations in a person's consciousness, cognition, perception, judgment, affect, or behavior. These can vary between people and depend on the severity of intoxication. Not only the effects of alcohol but also the complications caused by it – such as accidents and violence – are a major threat to a person's health.

Diagnosis of alcohol intoxication always requires ruling out other conditions. In moderate and severe cases, measuring the blood alcohol concentration (BAC) is essential. Treatment focuses on managing symptoms and avoiding complications. Management and prognosis also vary depending on the degree of intoxication. The condition can be successfully prevented by abstaining from alcohol or at least limiting consumption.^{[1] [2] [3] [4] [5]}

In people affected, it's important to also check for an underlying alcohol use disorder.

If you think that you might experience alcohol intoxication, you can try using Ada to find out more about your symptoms.

What causes alcohol intoxication?

Generally, alcohol intoxication is caused by drinking too much alcohol. However, the amount of alcohol needed for intoxication varies from person to person. Factors that influence the likelihood of intoxication include:^{[1] [2] [6] [7] [3] [8] [9]}

- Genes – can make people more resistant or susceptible to alcohol.
- Different types of alcohol can have different effects on a person's health. - Besides ethanol, which is found in alcoholic beverages, other types can be found in products, such as industrial applications, antifreeze products, disinfectants, and antiseptics.
- Amount of alcohol, which is crucial for intoxication - Binge drinking, having five or more alcoholic beverages, generally leads to alcohol intoxication. - For some people, the threshold lies far below that. - Risk increases the higher the percentage of alcohol is in the beverage.
- Rate of alcohol intake affects the body's ability to cope - The faster alcohol is ingested, the higher the risk of intoxication.
- Children and old people have a reduced ability to eliminate alcohol - Children are particularly at risk of accidentally ingesting alcohol found in colognes, perfumes, mouthwash, aftershave, or cough medication.
- Previous food intake and hydration level influence the effects of alcohol.
- Higher body weight increases the ability to eliminate alcohol.
- This makes women on average more susceptible.
- Underlying conditions, which can reduce the ability to eliminate alcohol.
- Certain medications can reduce the ability to eliminate alcohol.
- Frequency and pattern of alcohol use can influence the resistance or susceptibility to the effects of alcohol - Symptoms in frequent drinkers can be

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less predictable and sometimes less showing. - A person that rarely drinks can show signs of intoxication after small amounts of alcohol.

What are alcohol intoxication symptoms?

The signs and symptoms of alcohol intoxication result in alterations in a person's consciousness, cognition, perception, judgment, affect, or behavior.

These can vary between people and depend on the severity of intoxication. Symptoms in frequent drinkers can be less predictable and sometimes less

On this page

Among people who do not live with a chronic alcohol problem, symptoms often relate to the blood alcohol concentration (BAC). These symptoms include: [11][21][28], 8, [10]

Mild intoxication:

BAC between 0.01 and 0.1 percent

- Feelings of wellbeing and confidence
- Disinhibition
- Urge to speak
- Feelings of tranquility and relaxation
- Mild deficits in coordination
 - unsteady gait
 - difficulties standing upright
- Slightly decreased attention, memory, and judgement
- Reddening of the skin or flushing of the face
- Slightly fastened heartbeat

Moderate intoxication:

BAC between 0.15 and 0.3 percent:

- Mood variability
- Pronounced disinhibition

- Slurred speech
- Greater deficits in coordination and psychomotor skills
 - Increasing unsteadiness of gait
 - Clumsiness

- Increasingly impaired attention, memory, and judgement

- Reduction in responsiveness, alertness, and reaction time

- Confusion

- Uncontrolled eye movements

- Sleepiness

- Dizziness

- Nausea and vomiting

- Impaired vision and sound localization

- Memory gap

severe intoxication (alcohol poisoning):

BAC greater than 0.3 percent:

- Delusions and hallucinations

- Severe difficulty speaking

- Severe dizziness

- Severe deficits in coordination and psychomotor skills

- Potential hypothermia

- Potential coma - **usually BAC greater than 0.4 percent** - loss of consciousness - lack of defensive reflexes - respiratory failure.

Delusions and hallucinations

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In many cases, other substances, such as drugs or medication, were taken in addition to the alcohol. This is important to know because these substances can hide, alter, or even boost some of the signs of alcohol intoxication. ^[1]

Some symptoms of alcohol poisoning need immediate emergency medical attention. These include: ^{[1][2]}

- Problems breathing
- Reduced consciousness
- Uncontrollable vomiting
- Chest pain
- Seizures
- Being hypothermic.

If the person lives with an underlying alcohol use disorder, more symptoms may occur.

If you think that you might experience alcohol intoxication, you can try using the Ada app to find out more about your symptoms.

How is alcohol intoxication diagnosed?

Alcohol intoxication is usually suspected in a few ways: **its signs and symptoms, other people witnessing the increased alcohol consumption, or complications that require medical attention such as accidents and violence.**

Diagnosis of alcohol intoxication always requires ruling out other conditions. In moderate and severe cases, measuring the blood alcohol concentration (BAC) is essential. ^{[1][2]}

The approach to diagnosis includes: ^{[1][6][7][3]}

Medical history:

- Checking for alterations in a person's consciousness, cognition, perception, judgment, affect, or behavior
- Interviewing other people having witnessed the increased alcohol consumption if present

- Asking specific questions, such as: - If the person regularly consumes alcohol or even lives with an alcohol problem - If the person has taken other substances, such as drugs or medication, in addition - About suicidal tendencies - What type of alcohol has been consumed

Physical examination:

- Doing a complete physical examination on the affected person in order to: - Recognize any signs of alcohol intoxication - Pick up on other conditions causing similar symptoms - Notice potential complications (see below)

Measuring the alcohol concentration

- Blood alcohol concentration (BAC) is the most accurate measurement of the alcohol level. - Particularly in regular drinkers, symptoms and the BAC do not necessarily relate to each other, making an accurate measurement beneficial. - Usually, this is only required in moderate and severe cases.

Breath analysis

- Is an available alternative
- Provides more rapid results
- Requires cooperation
- Is less accurate.

Additional studies are usually unnecessary in cases of mild alcohol intoxication.

- They should include: - Other laboratory studies, such as glucose and electrolyte levels, in addition to the BAC - Imaging tests, such as X-rays or CT scans, if there are signs of an accident.

It is essential to rule out other conditions in order to diagnose alcohol intoxication. These include: ^{[1][2]}

Head trauma

- This can also occur as a result of alcohol intoxication due to falling.

Hypoxia

- An insufficient oxygen supply
- This can have numerous causes, such as heart or lung problems.

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Hypoglycemia

- Low glucose levels
- This can also occur as a result of alcohol intoxication and generally requires monitoring.

Hypothermia

- This can also occur as a result of alcohol intoxication and the behavioral changes it causes.

Hepatic encephalopathy Other metabolic derangements

In people affected, it is important to also check for an underlying alcohol abuse.

How is alcohol intoxication treated?

The treatment for alcohol intoxication focuses on managing symptoms and avoiding complications. ^{[1][3]}

Type of alcohol

- Besides ethanol, which is found in alcoholic beverages, other types can be found in products – such as industrial applications, antifreeze products, disinfectants, and antiseptics.

Other substances involved

- In many cases, drugs or medication were taken in addition to the alcohol.

The severity of intoxication The presence of complications

- These can range from glucose or electrolyte derangements to injuries and many more (see below).

Depending on the severity of intoxication treatment includes:

^{[1][3][6]}

Mild alcohol intoxication

- Usually only requires observation
- Might require glucose administration if glucose levels are decreased

- Might require sedative medications if they are agitated, violent, or uncooperative.

Moderate alcohol intoxication

- Requires close monitoring
- Requires glucose administration if glucose levels are decreased
- Often requires fluid hydration via IV access

- Might require sedative medications if they are agitated, violent, or uncooperative.

Severe alcohol intoxication

- Requires constant monitoring - In some cases, this can only be provided in an emergency department or intensive care unit.
- Requires frequent reassessment of the breathing - If breathing is insufficient, intubation and mechanical ventilation are required.

- Requires glucose administration if glucose levels are decreased
- Requires fluid hydration via IV access

- Might require sedative medications if they are agitated, violent, or uncooperative

- Might require administration of thiamine via IV access - This is also known as vitamin B1. - It should be administered if the intoxicated person is in a coma to prevent a complication called Wernicke's encephalopathy.

Once the affected person is sober again, it should be evaluated if alcohol or substance abuse is an ongoing problem due to an alcohol use disorder. This requires further treatment. ^{[1][4][5]}

How is alcohol intoxication treated?

The condition can be successfully prevented by abstaining from alcohol or at least limiting consumption. ^{[1][3]}

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How is alcohol intoxication treated?

Alcohol intoxication is a temporary condition and therefore generally has a good prognosis. Some factors can influence its prognosis, which include: [1], [6], [7], [3]

Type of alcohol

- Besides ethanol which is found in alcoholic beverages, other types can be found in products, such as industrial applications, antifreeze products, disinfectants, and antiseptics.

Other substances involved

- In many cases, drugs or medication were taken in addition to the alcohol.

Severity of intoxication Presence of complications

- These can range from glucose or electrolyte derangements to injuries and many more (see below)

Pre-existing conditions

What are the complications of alcohol intoxication?

There are a number of complications that can develop due to alcohol intoxication. These include: [1], [2], [4], [5]

Metabolic derangements including

- Low glucose levels
- Low potassium levels

Hypoxia

- An insufficient oxygen supply caused by impaired breathing

Hypothermia

- A low body core temperature

Heart arrhythmia

- Sometimes referred to as "holiday heart"

Injuries

- Caused by accidents or violence due to the influence of alcohol

If you think that you might experience alcohol intoxication, you can try using the Ada app to find out more about your symptoms. [1]

Alcohol intoxication FAQs:

Q: When should you go to the hospital for alcohol intoxication?

A: There are a number of reasons to seek immediate medical attention due to alcohol intoxication. These include: [1], [3]

Experiencing any of the following symptoms

- Problems breathing
- Reduced consciousness
- Uncontrollable vomiting
- Chest pain
- Seizures
- Being hypothermic

Showing signs of alcohol intoxication and taking other substances, such as drugs or medication, in addition to the alcohol.

Q: What will happen to your body if you drink too much alcohol?

A: Drinking too much alcohol can result in alcohol intoxication. People affected will have symptoms that result in alterations in a person's consciousness, cognition, perception, judgment, affect, or behavior. These can vary between people and depend on the severity of intoxication. People who drink regularly may develop a condition called alcohol use disorder which can lead to serious complications. [1], [3]

1. UpToDate. "Ethanol intoxication in adults." Accessed 06 November 2019. [2] [3] [4] [5] [6] [7]

Fig. 5075

2. UpToDate. "Risky drinking and alcohol use disorder: epidemiology, pathogenesis, clinical manifestations, course, assessment, and diagnosis". Accessed 06 November 2019. [Go to](#)
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10. MSD Manuals Professional Version. "Alcohol Toxicity and Withdrawal". Accessed 06 November 2019. [Go to](#)
11. Medscape. "Holiday Heart Syndrome". Accessed 07 November 2019. [Go to](#)



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English

Anthony D. Longstreet SR #1242017
High Desert State Prison
28010 Cold Creek Road
Indian Spring, Nevada 89070

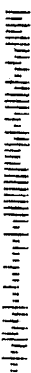
Clerk of Court

To, Steven D. Grierson

8th Judicial District Court
200 LEWIS AVENUE/3rd Floor
LAS VEGAS, Nevada 89155

LEGAL

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Heather L. Linn
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTHONY LONGSTREET,
~~**THE STATE OF NEVADA,**~~

Plaintiff,

-vs-

~~**ANTHONY LONGSTREET,**~~
~~**#6028264 THE STATE OF NEVADA, ET AL.**~~

Defendant.

CASE NO: A-21-841927-W /
C-20-348182-1
DEPT NO: IX

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: DECEMBER 8, 2021
TIME OF HEARING: 11:00 AM

THIS CAUSE having come on for hearing before the Honorable SILVA, District Judge, on the 8th day of December, 2021, the Petitioner not being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through BARBARA SCHIFALACQUA, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

PROCEDURAL HISTORY

On April 16, 2020, Petitioner Anthony Longstreet ("Petitioner") was charged by way of Amended Criminal Complaint with the following: Count 1 - Battery With Substantial

1 Bodily Harm, Victim 60 Years of Age or Older (Category C Felony - NRS 200.481, 193.167);
2 Count 2 - Attempt Robbery (Category B Felony - NRS 200.380, 193.330); and Count 3 -
3 Burglary (Category B Felony - NRS 205.060). On April 30, 2020, the State filed an
4 Information charging Petitioner with one count of Battery With Substantial Bodily Harm
5 (Category C Felony – NRS 200.481). On September 3, 2020, the State filed a Notice of Intent
6 to Seek Punishment as a Habitual Criminal.

7 On November 30, 2020, a signed Guilty Plea Agreement was filed in open court. On
8 December 1, 2020, Petitioner pled guilty to the single count of Battery With Substantial Bodily
9 Harm alleged in the Information.

10 On January 27, 2021, Petitioner was sentenced to a term of nineteen (19) to forty-eight
11 (48) months in the Nevada Department of Corrections. Petitioner received three hundred and
12 thirty-four (334) days credit for time served. On February 7, 2021, the Judgment of Conviction
13 was filed. No direct appeal was taken. On September 30, 2021, Petitioner filed the instant
14 Petition for Writ of Habeas Corpus (Post-Conviction) (“Petition”).

15 On December 8, 2021, this matter came before this Court, at which time this Court
16 heard arguments. The Court stated its Findings, Conclusions, and Order based on the written
17 pleadings, as follows:

18 ANALYSIS

19 I. PETITIONER RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL

20 To establish a claim of ineffective assistance of counsel for advice regarding a guilty
21 plea, a defendant must show “gross error on the part of counsel.” Turner v. Calderon, 281 F.3d
22 851, 880 (9th Cir. 2002). When a conviction is the result of a guilty plea, a defendant must
23 show that there is a “reasonable probability that, but for counsel’s errors, he would not have
24 pleaded guilty and would have insisted on going to trial.” Hill v. Lockhart, 474 U.S. 52, 59,
25 106 S.Ct. 366, 370 (1985) (emphasis added); see also Kirksey v. State, 112 Nev. 980, 988, 923
26 P.2d 1102, 1107 (1996); Molina v. State, 120 Nev. 185, 190-91, 87 P.3d 533, 537 (2004). “A
27 reasonable probability is a probability sufficient to undermine confidence in the outcome.”
28

1 McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing Strickland, 466
2 U.S. at 687-89, 694, 104 S. Ct. at 2064-65, 2068).

3 Here, Petitioner's first ground, that had counsel shown the surveillance video at
4 sentencing he likely would have received a lesser sentence, is denied as it was belied by the
5 record. Hargrove, 100 Nev. at 503, 686 P.2d at 225. The court minutes from January 27, 2021,
6 indicated that the Court reviewed a portion of the surveillance video prior to imposing
7 sentence.

8 Petitioner's second ground is an argument that at sentencing his counsel should have
9 presented a mitigation defense that he was intoxicated or unconscious when he committed the
10 offense. This claim is denied as raising such a defense during Petitioner's sentencing would
11 have been futile, because Petitioner's guilt was no longer in dispute, and counsel cannot be
12 ineffective for failing to make futile arguments. Ennis v. State, 122 Nev. 694, 706, 137 P.3d
13 1095, 1103 (2006).

14 To be effective, the constitution "does not require that counsel do what is impossible or
15 unethical. If there is no bona fide defense to the charge, counsel cannot create one and may
16 disserve the interests of his client by attempting a useless charade." United States v. Cronie,
17 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984). Petitioner ignores the fact that his
18 counsel could not have raised this defense at sentencing, as Petitioner's guilt was no longer in
19 dispute.

20 When Petitioner agreed to and signed his GPA prior to his sentencing hearing, he
21 admitted "[t]he facts which support all the elements of the offense". GPA, filed November 30,
22 2020 at 2. Additionally, NRS 194.010 does not provide an exception to imprisonment, as
23 petitioner claims. It's not a mitigation statute; it excuses individuals from criminal liability
24 under certain circumstances. Petitioner entered a plea of guilty, so his criminal liability was
25 already established, rendering NRS 194.010 inapplicable.

26 Lastly, Petitioner failed to meet both prongs of the Strickland standard. 466 U.S. at 687-
27 88, 694, 104 S. Ct. at 2065, 2068. First, Petitioner has failed to assert how counsel's
28 representation fell below an objective standard of reasonableness. Petitioner failed to argue

1 how counsel was per se deficient by not raising an argument based on NRS 194.010. Second,
2 Petitioner failed to explain how raising such an argument would have resulted in a different
3 outcome. Had Petitioner's counsel raised the arguments Petitioner mentions, these arguments
4 would have failed. Raising a defense during a sentencing argument would have been futile,
5 and counsel cannot be ineffective for failing to make futile arguments. Ennis v. State, 122 Nev.
6 694, 706, 137 P.3d 1095, 1103 (2006). Thus, as Petitioner failed to show how his counsel's
7 representation fell below an objective standard of reasonableness or how raising an argument
8 based on NRS 194.010 during his sentencing hearing would have changed the outcome in
9 anyway, Petitioner argument failed both prongs of the Strickland standard.

10 Therefore, Petitioner's claim of ineffective counsel is denied as Petitioner's first ground
11 is belied by the record and Petitioner's second ground is meritless as Petitioner had admitted
12 the facts supporting the offense in his GPA, prior to his sentencing hearing. Further, the law
13 Petitioner relies on does not provide an exception to imprisonment. Ultimately, Petitioner
14 failed to provide a bona fide argument Petitioner's counsel could have made at sentencing.
15 Therefore, this claim is denied.

16 **II. PETITIONER'S INVOLUNTARY INTOXICATION AND LOCAL RULE**
17 **CLAIMS CANNOT BE CONSIDERED ON HABEAS AND FAIL TO**
18 **CONTAIN ANY COGNITIVE ALLEGATIONS**

19 NRS 34.810(1)(a) states that a defendant who pled guilty can only raise habeas claims
20 that his plea was not voluntarily entered or entered without the effective assistance of counsel.
21 Petitioner's claims that he should not have been sentenced to imprisonment under NRS
22 194.010 due to involuntary intoxication and that EDCR 3.70 denied him access to the court
23 are improperly brought on Habeas review. Thus, as both of these claims are improper under
24 Habeas review, they are both denied.

25 **A. Petitioner's Involuntary Intoxication Claim Fails to Contain any Cognitive**
26 **Allegations**

27 NRS 194.010 states in part:

28 5. Persons who committed the act or made the omission charged
under an ignorance or mistake of fact, which disproves any

criminal intent, where a specific intent is required to constitute the offense.

6. Persons who committed the act charged without being conscious thereof.

Petitioner's involuntary intoxication argument under NRS 194.010(5) fails first, because Petitioner fails to allege that he was charged with a specific intent crime. Rather, Petitioner pled guilty to the general intent crime of battery resulting in substantial bodily harm. Byars v. State, 130 Nev. 848, 863, 336 P.3d 939, 949 (2014). Second, Petitioner's argument under NRS 194.010(6) fails because Petitioner fails to allege that he was unconscious when he committed the crime. Thus, because Petitioner fails to contain any cognitive allegations supporting his arguments under NRS NRS 194.010, these claims are denied.

B. Petitioner's Local Rule EDCR 3.70 Claim Fails to Contain any Cognitive Allegations

Criminal defendants represented by counsel typically may not file pro se motions. United States v. Gallardo, 915 F.Supp. 216, 218 n. 1 (D.Nev.1995); Carter v. State, 713 So.2d 1103, 1104 (Fla.Dist.Ct.App.1998). The rule is "an aspect of the doctrine that an accused can proceed by counsel or pro se but not in both capacities at the same time." People v. Neal, 675 N.E.2d 130, 131 (Ill.App.Ct.1996); State v. Muse, 637 S.W.2d 468, 470 (Tenn.Crim.App.1982). Petitioner failed to demonstrate that EDCR 3.70 denied him his constitutional rights, thus this claim is denied.

III. PETITIONER'S CHALLENGE TO THE CONDITIONS OF CONFINEMENT CANNOT BE CONSIDERED ON HABEAS

The Nevada Supreme Court has repeatedly held that a petition for writ of habeas corpus may only challenge the validity of a conviction or sentence, not the conditions of confinement. Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); Director v. Arndt, 98 Nev. 84, 86, 640 P.2d 1318, 1319 (1982). A post-conviction petition for writ of habeas corpus may only be used to request "relief from the conviction or sentence or to challenge the computation of time that the person has served." NRS 34.724(1). To obtain sentence modification, Petitioner must file a motion to modify sentence that demonstrates that his sentence was based on a materially untrue assumption or mistake of fact about his criminal record that has worked

1 to his extreme detriment of the defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321,
2 324 (1996).

3 The Court declines to rule on Petitioner's claims that challenge the conditions of his
4 confinement. Such claims must be done via a separate filing, not in a post-conviction petition
5 for a writ of habeas corpus. See NRS 34.724(1); Bowen v. Warden of Nevada State Prison,
6 100 Nev. 489, 490, 686 P.2d 250, 250 (1984) ("a petition for writ of habeas corpus may
7 challenge the validity of current confinement, but not the conditions thereof.").

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus
10 (Post-Conviction) shall be, and it is, hereby denied.

Dated this 1st day of March, 2022

11 ~~DATED this ____ day of February, 2022.~~

12
13 DISTRICT JUDGE

EC

14 STEVEN B. WOLFSON
15 Clark County District Attorney
Nevada Bar #001565

77B 131 7D5D 378B
David Barker
District Court Judge

16 BY /s/KAREN MISHLER
17 KAREN MISHLER
18 Chief Deputy District Attorney
Nevada Bar #013730

19
20
21 **CERTIFICATE OF SERVICE**

22 I certify that on the 28th day of February, 2022, I mailed a copy of the foregoing
23 proposed Findings of Fact, Conclusions of Law, and Order to:

24 ANTHONY ODELL LONGSTREET SR 1242017
25 P.O. BOX 1989, Ely Nevada 89301

26 BY 
27 Secretary for the District Attorney's Office

28 20FN0563X

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Anthony Longstreet, Plaintiff(s) | CASE NO: A-21-841927-W
7 vs. | DEPT. NO. Department 9
8 State of Nevada, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTHONY LONGSTREET,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-20-348182-1

Dept No: IX

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on March 1, 2022, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on March 2, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 2 day of March 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-
Public Defender's Office

☒ The United States mail addressed as follows:

Anthony Longstreet # 1242017
P.O. Box 1989
Ely, NV 89301

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

Heather L. Smith
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTHONY LONGSTREET,
~~**THE STATE OF NEVADA,**~~

Plaintiff,

-vs-

~~**ANTHONY LONGSTREET,**~~
~~**#6028264 THE STATE OF NEVADA, ET AL.**~~

Defendant.

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C-20-348182-1
DEPT NO: IX

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LAW AND ORDER**

DATE OF HEARING: DECEMBER 8, 2021
TIME OF HEARING: 11:00 AM

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FINDINGS OF FACT, CONCLUSIONS OF LAW

PROCEDURAL HISTORY

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III. PETITIONER'S CHALLENGE TO THE CONDITIONS OF CONFINEMENT CANNOT BE CONSIDERED ON HABEAS

The Nevada Supreme Court has repeatedly held that a petition for writ of habeas corpus may only challenge the validity of a conviction or sentence, not the conditions of confinement. Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); Director v. Arndt, 98 Nev. 84, 86, 640 P.2d 1318, 1319 (1982). A post-conviction petition for writ of habeas corpus may only be used to request "relief from the conviction or sentence or to challenge the computation of time that the person has served." NRS 34.724(1). To obtain sentence modification, Petitioner must file a motion to modify sentence that demonstrates that his sentence was based on a materially untrue assumption or mistake of fact about his criminal record that has worked

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3 The Court declines to rule on Petitioner's claims that challenge the conditions of his
4 confinement. Such claims must be done via a separate filing, not in a post-conviction petition
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6 100 Nev. 489, 490, 686 P.2d 250, 250 (1984) ("a petition for writ of habeas corpus may
7 challenge the validity of current confinement, but not the conditions thereof.").

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus
10 (Post-Conviction) shall be, and it is, hereby denied.

Dated this 1st day of March, 2022

11 ~~DATED this ____ day of February, 2022.~~

12
13 DISTRICT JUDGE

EC

14 STEVEN B. WOLFSON
15 Clark County District Attorney
Nevada Bar #001565

77B 131 7D5D 378B
David Barker
District Court Judge

16 BY /s/KAREN MISHLER
17 KAREN MISHLER
18 Chief Deputy District Attorney
Nevada Bar #013730

19
20
21 **CERTIFICATE OF SERVICE**

22 I certify that on the 28th day of February, 2022, I mailed a copy of the foregoing
23 proposed Findings of Fact, Conclusions of Law, and Order to:

24 ANTHONY ODELL LONGSTREET SR 1242017
25 P.O. BOX 1989, Ely Nevada 89301

26 BY 
27 Secretary for the District Attorney's Office

28 20FN0563X

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Anthony Longstreet, Plaintiff(s) | CASE NO: A-21-841927-W
7 vs. | DEPT. NO. Department 9
8 State of Nevada, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 06, 2020**

C-20-348182-1 State of Nevada
vs
Anthony Longstreet

May 06, 2020 8:00 AM Initial Arraignment

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Carol Donahoo

RECORDER: Sharon Nichols

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Madilyn Cole, Dep DA, present on behalf of the State; Lynn Avants, Dep PD, present on behalf of Deft. Longstreet, who is also present.

This is the time set for the Initial Arraignment. Mr. Avants advised that Guilty Plea Agreement needs to be reviewed with the Deft. prior to his entry of plea; therefore, he would request that the matter be CONTINUED so the assigned Deputy can meet with the Deft.

Upon Court's inquiry, the Deft, stated that he does not have an attorney and he has already been granted leave to represent himself. Mr. Avants discussed the Justice Court proceedings; the Deft. unconditionally WAIVED out of Justice Court; Seth Gutierrez, Dep PD, was present. According to Mr. Avants' notes, it does not appear that the Deft. has been canvassed with regard to self-representation. The Deft. then stated that he filed a formal motion but there is no record of that. Therefore, COURT ORDERED, matter set for Continued Arraignment. If the Deft. still wants to represent himself, he needs to speak with counsel first.

CUSTODY

05/13/20 8:00 AM ARRAIGNMENT CONTINUED

PRINT DATE: 03/15/2022

Page 1 of 19

Minutes Date: May 06, 2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 13, 2020**

C-20-348182-1

State of Nevada

vs

Anthony Longstreet

May 13, 2020**8:00 AM****Arraignment Continued****HEARD BY:** Silva, Cristina D.**COURTROOM:** RJC Lower Level Arraignment**COURT CLERK:** Carol Donahoo**RECORDER:** Sharon Nichols**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Sarah Overly, Chf Dep DA, present on behalf of the State; Bryan Cox, Dep PD, appearing on behalf of Deft. Longstreet, who is also present.

This is the time set for the Continued Arraignment. A Guilty Plea Agreement (GPA) was e-filed on May 12, 2020. During the plea canvass, the Deft. stated that he does not have any attorney, he is representing himself because he filed a Motion on April 2 and it has been granted, Therefore, Mr. Cox is just assisting him.

Court noted that there is no record of the Deft.'s Motion in Odyssey; colloquy. In light of the filed GPA, Mr. Cox inquired as to whether the Deft. wanted to continue with the plea colloquy. The Deft. stated that he would go forward but he wanted the Court to understand that Mr. Cox is just assisting him. The Deft. then took issue with a statement in the GPA wherein he WAIVES his right to challenge the legality of these proceedings; he believes that is a violation of his rights, The Court advised the offer from the State is as stated in the GPA, the Deft. can take it as it is or he can reject it. If the offer is rejected, the Court cannot proceed with the plea canvass this morning. The Deft. stated he would accept the offer under duress.

The COURT advised that it would NOT accept the Deft.'s guilty plea this morning but instead would

enter a plea of NOT GUILTY on his behalf and INVOKE THE SIXTY (60)-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

07/09/20 9:00 AM CALENDAR CALL (DC3)

07/13/20 10:00 AM JURY TRIAL (DC3)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 09, 2020**

C-20-348182-1

State of Nevada

vs

Anthony Longstreet

July 09, 2020**3:30 PM****Calendar Call****HEARD BY:** Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Stacey Ray**REPORTER:****PARTIES****PRESENT:**

Albritton, Alicia A.

Attorney

Gutierrez, Seth

Attorney

Longstreet, Anthony Odell

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Gutierrez indicated the State e-mailed him a copy of the Amended Information they filed, which reflects everything that was original charges in Justice Court. Ms. Albritton stated the document has not been filed yet, and she was requesting leave of the Court to file it. COURT SO ORDERED. Defendant stated he wanted to represent himself. COURT ADVISED there has not been any Motions filed to represent himself, adding if the documents were filed in Justice Court, they need to be re-filed in District Court. Colloquy regarding trial dates. COURT FURTHER ORDERED, trial date VACATED; Faretta Canvass SET.

CUSTODY

7/21/2020 3:30 P.M. FARETTA CANVASS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 21, 2020

C-20-348182-1 State of Nevada
 vs
 Anthony Longstreet

July 21, 2020 3:30 PM Faretta Canvass

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Stacey Ray

REPORTER:

PARTIES

PRESENT:	Albritton, Alicia A.	Attorney
	Gutierrez, Seth	Attorney
	Longstreet, Anthony Odell	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Upon Court's inquiry, Defendant stated he wishes to represent himself. Court conducted Farreta Canvas. COURT ORDERED, Defendant's request to represent himself DENIED; the Public Defender's Office will remain as counsel of record. Ms. Albritton stated the Defendant has never represented himself before. COURT FURTHER ORDERED, trial date SET.

CUSTODY

9/10/2020 9:00 A.M. CALENDAR CALL

9/14/2020 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 09, 2020

C-20-348182-1 State of Nevada
 vs
 Anthony Longstreet

**September 09, 2020 2:00 PM Central Trial Readiness
Conference**

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Albritton, Alicia A. Attorney
 Gutierrez, Seth Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present.

Mr. Gutierrez advised all discovery has been received from the State however Defendant is still requesting to represent himself therefore defense can not announce ready if Defendant is not cooperating. State advised it is still waiting on some records. COURT ORDERED, trial date to be RESET by department.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 10, 2020

C-20-348182-1 State of Nevada
 vs
 Anthony Longstreet

September 10, 2020 3:30 PM Calendar Call

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Stacey Ray

REPORTER:

PARTIES

PRESENT:	Gutierrez, Seth	Attorney
	Longstreet, Anthony Odell	Defendant
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney

JOURNAL ENTRIES

- Mr. Gutierrez stated parties attended a Central Trial Readiness yesterday, and they are not ready to proceed to trial, and requested the matter be set for a Faretta Canvas. Upon Court's inquiry, Defendant stated he wanted to represent himself. COURT ORDERED, trial date VACATED; Faretta Canvas SET.

CUSTODY

9/15/2020 3:30 P.M. FARETTA CANVASS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 15, 2020

C-20-348182-1 State of Nevada
 vs
 Anthony Longstreet

September 15, 2020 3:30 PM Faretta Canvass

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Stacey Ray

REPORTER:

PARTIES

PRESENT:	Gutierrez, Seth	Attorney
	Lacher, Ashley A.	Attorney
	Longstreet, Anthony Odell	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Gutierrez informed the Court the Defendant wanted to represent himself again. COURT STATED they are not inclined to revisit their prior ruling, and ORDERED trial date SET.

CUSTODY

11/24/2020 3:30 P.M. CALENDAR CALL

1/30/2020 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 15, 2020**

C-20-348182-1

State of Nevada

vs

Anthony Longstreet

October 15, 2020**3:30 PM****Motion**

**Defendant's Pro Per
Motion to Discharge
Public Defender**

HEARD BY: Herndon, Douglas W.**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Kory Schlitz**RECORDER:** Stacey Ray**REPORTER:****PARTIES****PRESENT:**

Gutierrez, Seth

Attorney

Lacher, Ashley A.

Attorney

Longstreet, Anthony Odell

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Gutierrez stated he spoke with the Defendant last night, and the Defendant is not happy with him, as the Defendant does not like me, and he does not feel there is any basis for it, other than the fact that he will not file a frivolous motion on behalf of the Defendant. Mr. Gutierrez stated he has also spoke with Ms. Albritton, and is prepared to proceed to trial, explained to the Defendant the consequences of what could happen if the matter does proceed to trial, adding the Defendant has requested to represent himself, and the Faretta Canvas has been done twice. Mr. Gutierrez further stated if the Court would allow the Defendant to represent himself, he would be fine sitting as stand by counsel during trial. Upon Court's inquiry, Defendant stated Mr. Gutierrez has not file any Motion, and he has been denied the right to see the video tape, and he is not prepared to proceed to trial. Mr. Gutierrez stated he did show the Defendant the video prior to waiving up, and it was on his cell phone while parties were on a video conference. Defendant stated he cannot go to trial with Mr. Gutierrez. COURT STATED the trial is still a month away, and there is a lot that gets completed right before trial, and the Court understands the Defendant's frustration regarding no Motions being filed,

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Minutes Date: May 06, 2020

however the Attorney's have autonomy on their on to make a decision on whether a Motion is good to file, or a frivolous Motion, and they have an obligation to not file frivolous Motions. COURT ADDITIONALLY STATED when the matter reaches calendar call, and the Defendant still feels he cannot work with his attorney, then the Court can readdress the appointment of new counsel, and right now as of everything the Court has reviewed there is no basis to remove Mr. Gutierrez as counsel of record. COURT ORDERED, Motion to Discharge Public Defender DENIED. Mr. Gutierrez stated the most recent offer for the record.

CUSTODY

11/24/2020 3:30 P.M. CALENDAR CALL

11/30/2020 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 24, 2020

C-20-348182-1 State of Nevada
 vs
 Anthony Longstreet

November 24, 2020 3:30 PM Calendar Call

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Stacey Ray

REPORTER:

PARTIES

PRESENT:	Albritton, Alicia A.	Attorney
	Gutierrez, Seth	Attorney
	Longstreet, Anthony Odell	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Gutierrez informed the Court the Defendant wants to go forward with the negotiations that were previously offered. COURT ORDERED, trial date VACATED, entry of plea SET and DIRECTED Mr. Gutierrez to meet with the Defendant to review the plea.

CUSTODY

12/01/2020 3:30 P.M. ENTRY OF PLEA... DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY AND BRAD MATERIAL...

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 01, 2020**

C-20-348182-1 State of Nevada
vs
Anthony Longstreet

December 01, 2020 3:30 PM All Pending Motions

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Stacey Ray

REPORTER:

PARTIES

PRESENT:	Albritton, Alicia A.	Attorney
	Gutierrez, Seth	Attorney
	Longstreet, Anthony Odell	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY AND BRADY MATERIAL... ENTRY OF PLEA...

Mr. Gutierrez informed the Court he filed the Guilty Plea Agreement (GPA). NEGOTIATIONS are as contained in the Guilty Plea Agreement PREVIOUSLY FILED. DEFENDANT LONGSTREET ARRAIGNED AND PLED GUILTY TO BATTERY WITH SUBSTANTIAL BODILY HARM (F). Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing.

MATTER RECALLED. Defendant not present. Ms. Albritton requested the Second Amended Information filed on July 13, 2020, and the Amended Information filed on July 10, 2020 be stricken. COURT ORDERED, Second Amended Information filed on July 13, 2020, and the Amended Information filed on July 10, 2020 be STRICKEN as the matter will proceed on the Information filed April 30, 2020. COURT FURTHER ORDERED, Defendant's Motion to Compel Production of Discovery and brady Material MOOT.

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CUSTODY

1/26/2021 9:00 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 11, 2021**

C-20-348182-1 State of Nevada
vs
Anthony Longstreet

January 11, 2021 11:00 AM Motion

HEARD BY: Lilly-Spells, Jasmin**COURTROOM:** RJC Courtroom 12D**COURT CLERK:**

Grecia Snow

RECORDER: Maria Garibay**REPORTER:****PARTIES**

PRESENT:	Gutierrez, Seth	Attorney
	Longstreet, Anthony Odell	Defendant
	State of Nevada	Plaintiff
	Villegas, Victoria A.	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Deft. stated his concerns were that he did not have a copy of the Guilty Plea Agreement, copy of the State's Notice to File Habitual Criminal treatment, and did not want to be treated as a habitual criminal. State advised they were not going forward with habitual treatment and no certified Judgment of Convictions had been filed. Upon Court's inquiry, Deft. stated that he would like to represent himself to argue his case during sentencing. Mr. Gutierrez advised they disagreed with the most beneficial way to argue the merits of the case.

Court DIRECTED Mr. Gutierrez to mail a copy of the Guilty Plea Agreement, State's Notice to File Habitual by January 13, 2021, and to meet with Deft. by phone or video to discuss how to proceed during sentencing. Court advised it needed to review why the Motion was previously denied and ORDERED, matter CONTINUED.

CUSTODY

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1/25/21 11:00 AM - MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL AND APPOINT AN
ALTERNATIVE COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 25, 2021**

C-20-348182-1

State of Nevada

vs

Anthony Longstreet

January 25, 2021**11:00 AM****All Pending Motions****HEARD BY:** Lilly-Spells, Jasmin**COURTROOM:** RJC Courtroom 12D**COURT CLERK:**

Grecia Snow

RECORDER: Maria Garibay**REPORTER:****PARTIES****PRESENT:**

Getler, Stephanie M.

Attorney

Gutierrez, Seth

Attorney

Longstreet, Anthony Odell

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL AND APPOINT AN ALTERATIVE COUNSEL...SENTENCING

Upon Court's inquiry, Deft. stated he received a copy of the Guilty Plea Agreement, State's Notice to File Habitual Criminal treatment, and spoke with Mr. Gutierrez. Mr. Gutierrez advised he was prepared to go forward with sentencing. Statement by Deft. Court noted it reviewed the prior record, it appeared the Court previously denied the fareta canvas. COURT FINDS, appointed counsel was not deficient, therefore, ORDERED, motion DENIED.

Arguments by counsel and statement by Deft. COURT FURTHER ORDERED, parties to submit video by the end of day for the Court to review; matter CONTINUED for decision.

CUSTODY

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Minutes Date: May 06, 2020

1/27/21 11:00 AM - SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 27, 2021**

C-20-348182-1 State of Nevada
vs
Anthony Longstreet

January 27, 2021 11:00 AM Sentencing

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Grecia Snow

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Longstreet, Anthony Odell Defendant

JOURNAL ENTRIES

- Court noted it was unable to view the video due to the application not working and could continue matter to view it. Deft. stated he would prefer to proceed with sentencing today. Statement by Deft and argument by Ms. Phenix. Court reviewed a portion of the surveillance video. DEFT LONGSTREET ADJUDGED GUILTY of BATTERY WITH SUBSTANTIAL BODILY HARM (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Deft. SENTENCED to a MINIMUM of NINETEEN (19) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC), with THREE HUNDRED THIRTY-FOUR (334) DAYS credit for time served. Colloquy regarding the amount of felony's Deft. had. BOND, if any, EXONERATED.

NDC

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated March 3, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises two volumes with pages numbered 1 through 291.

STATE OF NEVADA,

Plaintiff(s),

vs.

ANTHONY ODELL LONGSTREET,

Defendant(s),

Case No: C-20-348182-1

Related Case A-21-841927-W

Dept. No: IX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 15 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk